

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

April 29, 2003

DIVISION ONE

B160018 People (Not for Publication)
v.
Haymond

The appeal is dismissed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B147168 Arden Realty, Inc. (Not for Publication)
v.
Bleau, et al.

The judgment is affirmed. Inasmuch as defendants are prevailing parties on appeal, they have a statutory right to reasonable fees incurred in defending against the appeal. (Code Civ. Proc., 425.16, subd.(c); p *Morcvos v. Board of Retirement* (1990) 51 Cal.3d 924,927.) As in the better practice, we leave it to the trial court to determine the amount of the fee award. (*Security Pacific National Bank v. Adamo* (1983) 142 Cal.App.3d 492,498.)

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

April 29, 2003 (Continued)

DIVISION ONE (Continued)

B155827 Dorsey, et al. (Not for Publication)
v.
Dorsey

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B161550 Los Angeles County, D.C.S. (Not for Publication)
v.
George E.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B154745 People (Not for Publication)
v.
Alvarez

The judgment is modified to award defendant 634 days of pre-sentence custody credit and the clerk of the court is directed to prepare an amended abstract of judgment reflecting the modification and to forward the amended abstract to the Department of Corrections. As modified, the judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

April 29, 2003 (Continued)

DIVISION ONE (Continued)

B148226 Sebastian International, Inc. (Not for Publication)
 v.
 Drug Emporium, Inc.

The appeal is dismissed.

Spencer, P.J.

We concur: Ortega, J.
 Vogel (Miriam A.), J.

B151350 Clark, Lynn (Not for Publication)
 v.
 Clark, John

The judgment on reserved issues entered on May 29, 2001 and the order setting the amount of appeal undertaking entered on June 14, 2001 are affirmed. John Clark's appeal for the August 24, 2001 eviction order is dismissed.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

B159117 People (Not for Publication)
 v.
 Joshua W.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
 Vogel (Miriam A.), J.

April 29, 2003 (Continued)

DIVISION ONE (Continued)

B158307 People (Not for Publication)
v.
Crumsey

The conviction of child abuse (Pen.Code, 273a, subd.(a)) is stricken. In all other respects, the judgment is affirmed. The clerk of the court is directed to prepare a corrected abstract of judgment, with the child abuse conviction stricken and reflecting the correct sentence for the second degree conviction, and forward a copy to the Department of Corrections.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B159470 Fang (Not for Publication)
v.
Torres

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B146466 People (Not for Publication)
v.
Sylvester

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

April 29, 2003 (Continued)

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Spencer, P.J.

I concur: Vogel (Miriam A.), J.
I concur in judgment only: Mallano, J.

DIVISION TWO

B152156 Benetic Financial Corporation, Inc. (Not for Publication)
v.
Wedgwood Retirement Inns, Inc., et al.

The verdict of \$150,000 in favor of Benetic is affirmed. The trial court's order denying Benetic's motion for prejudgment interest is reversed and remanded for the trial court to determine the percentage rate and date from which interest is to be recovered. The trial court's order shall also reflect Benetic's award of statutory costs in the amount of \$18,743.79. The trial court's order awarding Wedgwood and the individual appellants their attorney fees is reversed. Benetic shall receive its costs on appeal from Wedgwood and the individual appellants.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

B158576 People (Not for Publication)
v.
Marrero

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

April 29, 2003 (Continued)

DIVISION TWO (Continued)

B157106 People (Not for Publication)
v.
Escobar

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Doi Todd, J.

B158027 People (Not for Publication)
v.
Reich

The order under review is affirmed.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

B156802 Nichols (Not for Publication)
v.
Seagal

The judgment is affirmed in part, and reversed in part. The judgment shall be modified to reflect an award of \$1 dollar in nominal damages to Nichols. The award of costs to Seagal in the amount of \$17,238.42 shall be reversed. The parties shall bear their own costs on appeal.

Nott, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

April 29, 2003 (Continued)

DIVISION TWO (Continued)

B161498 Los Angeles County, D.C.S. (Not for Publication)
v.
Nadia W.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Doi Todd, J.

DIVISION THREE

B160320 People (Not for Publication)
v.
Sammy J.

Probation Condition No. 15 is modified to read: "Do not associate with anyone (known to you to be) disapproved of by parents (or) Probation Officer." The matter is remanded to the trial court for consideration of its discretion pursuant to section 1385. The order of wardship is otherwise affirmed.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B157810 Traweek (Not for Publication)
v.
Traweek

The order is affirmed. Appellant shall bear his own costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
Aldrich, J.

April 29, 2003 (Continued)

DIVISION THREE (Continued)

B159744 Sandra Rodriguez (Certified for Publication)

v.

Superior Court, Los Angeles County
(Crystal B., et al., r.p.i.)

The order to show cause is discharged. The petition for writ of mandate is denied. Plaintiffs shall recover their costs in this proceeding. (Cal. Rules of Court, rule 56.4 (a).)

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION FOUR

B157230 People (Not for Publication)

v.

Demirdjian

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
 Curry, J.

B155946 People (Not for Publication)

v.

Ollie

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Curry, J.

DIVISION FOUR (Continued)

B160121 People (Certified for Publication)

v.
Muhammad
Lopez

The order appealed from, imposing a monetary sanction against counsel, is reversed. No costs are awarded.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B161502 Los Angeles County, D.C.S. (Not for Publication)

v.
Lesbia P.

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B161884 People (Not for Publication)

v.
Hays

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

DIVISION FOUR (Continued)

B160809 Los Angeles County, D.C.S. (Not for Publication)
v.
Carolyn S.

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
 Hastings, J.

B163254 People
v.
Clark

Filed order denying petition for rehearing.

DIVISION FIVE

B148156 Union Federal Bank (Not for Publication)
v.
Landmark Insurance Company, etc., et al.

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

B160901 People (Not for Publication)
v.
Terice D. Beauford

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B155958 People (Certified For Partial Publication)

v.

Daryl Dorrell Tatum

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

DIVISION SIX

B161205 San Luis Obispo County DPSS (Not for Publication)

v.

Wendy P.

The order is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B159435 Elizarraras, et al. (Certified for Publication)

v.

L.A. Private Security Services, Inc., et al

The judgment is affirmed. Respondents shall recover costs on appeal.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

April 29, 2003 (Continued)

DIVISION SIX (Continued)

B158652 McMullen (Not for Publication)
v.
Jones

Accordingly, the summary judgment is affirmed. Costs to respondent.

Perren, J.

We concur: Gilbert, P.J.
Coffee, J.

B153821 Donati, et al. (Not for Publication)
v.
City of Santa Barbara

Treating the appeal as a petition for writ of mandate, we deny Donati's peremptory writ to direct the superior court to vacate its August 24, 2001, order. Costs on appeal are awarded to respondents.

Perren, J.

We concur: Gilbert, P.J.
Coffee, J.

DIVISION SEVEN

B153836 Sokol, et al. (Not for Publication)
v.
20th Century Insurance Co., et al.

The judgment is affirmed. Respondent(s) to recover costs.

Perluss, P.J.

I concur: Woods, J.
I dissent: Johnson, J. (Opinion)

April 29, 2003 (Continued)

DIVISION SEVEN (Continued)

[illegible]

The order granting a new trial is reversed. The trial court is directed to reinstate the judgment in favor of Petherbridge. The judgment upon reinstatement is final. Petherbridge is to recover his costs on appeal.

Perluss, P.J.

We concur: Woods, J.
Munoz, J. (Assigned)

B164253 Tajuana J., et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(DCFS, r.p.i.)

Because substantial evidence supports the juvenile court's order to conduct a hearing pursuant to section 366.26, the petitions are denied on the merits.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

B156833 People (Not for Publication)
v.
Leonard K.

The juvenile court is directed to modify the order of disposition to delete any reference to maximum time of confinement. As modified, the order is affirmed.

Perluss, P.J.

We concur: Woods, J.
Munoz, J. (Assigned)

April 29, 2003 (Continued)

DIVISION SEVEN (Continued)

B155965 People v. Allen

(Not for Publication)

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

[illegible]

As to count 1 for attempted voluntary manslaughter, the judgment is reversed and the order of sentencing is vacated. The cause is remanded for resentencing on the two counts for assault with a deadly weapon, or in the alternative, for a retrial of the attempted voluntary manslaughter count. In all other respects, the judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

B155418 Mansell (Certified for Publication)
v.
Otto, et al.

The judgment is affirmed. Each party to bear their own costs.

Johnson, J.

I concur: Woods, J.
I dissent: Perluss, P.J. (Opinion)

April 29, 2003 (Continued)

DIVISION SEVEN (Continued)

B155280 Bragg (Not for Publication)
v.
Hawthorne Savings & Loan Assoc.

The order is reversed and the cause remanded with the following directions. The trial court shall determine which costs requested in Hawthorne's memoranda of costs filed August 14, 2001 "are not allowable as costs" under Code of Civil Procedure section 1033.5, subdivision (b), and reduce the cost award accordingly. We also direct the trial court to reduce by \$4,634.28 Hawthorne's recoverable costs for filing and motion fees and depositions on the February 3, 1999 memorandum of costs, in compliance with the court's March 31, 1999 order. In all other respects, the order is affirmed. Each party is to bear its own costs on appeal.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

DIVISION EIGHT

Court convened at 9:04 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J. and Connie Hon, Deputy Clerk.

Each of the following:

B154744 People v. Salas
B155951 People v. Ramirez
B156407 People v. Bolt
B157604 People v. Venne
B157893 People v. Love
B159222 People v. Marshall
B159491 People v. Williams
B159632 DCFS v. Zhandra S.
B160131 State Compensation Insurance Fund v. WCAB
B160428 People v. Soriano
B161331 DCFS v. John P. and Schceritta E.
B161711 DCFS v. Zhandra S.
B164766 Angela F. v. SCLA (DCFS)

Argument waived, cause submitted.

April 29, 2003 (Continued)

DIVISION EIGHT (Continued)

B154584 Murphy, et al. v. BDO Seidman, LLP, et al.

Matter ordered off calendar.

B154862 Wolff v. Holmes

Matter continued to April 30, 2003, at 9:00 A.M.

B157019 Kunert, et al. v. Mission Financial Services, Corp., et al.

Matter continued to May 29, 2003, at 9:00 A.M.

B156022 Cameron
v.
Mercantile Mortgage

Appearances:

Thomas J. Holthus for respondent and no appearance for appellant.

Argument waived, cause submitted.

B156162 Gunawan
v.
Statewide Auto Insurance Brokers

Appearances:

Dan Lispi for appellant and Russell W. Schatz for respondent. Argument waived, cause submitted.

B162142 McGee Street Productions/Hallmark Entertainments
v.
Workers Compensation Appeals Board (Peterson)

Merits:

Argued by Stephen D. Roberson for petitioner and by George J. Gajdos for respondent. Cause submitted.

DIVISION EIGHT (Continued)

B157874 Modern Development Co.
 v.
 Navigators Insurance Company

Merits:

Argued by James H. Goudge for appellant and by Clark J. Burnham for respondent. Cause submitted.

Court recessed at 9:58 A.M.

Court reconvened at 1:04 P.M.

Present: Cooper, P.J., Rubin, J., Boland, J. and Connie Hon, Deputy Clerk.

B153654 Fragale, et al.
 v.
 Faulkner
 Messing

Merits:

Argued by Charles Richard Dodson for appellants and by Mark C. Carlson for respondent Messing. Counsel for respondent Faulkner previously waived argument. Submission deferred.

B156415 Smith, et al.
 v.
 California Institute Of Technology

Merits:

Argued by Edward Gregory for respondent and no appearance for appellants. Cause submitted.

B163651 Estate Of Cristina Moreno
 v.
 Superior Court, Los Angeles County
 (The Walt Disney Company et al., r.p.i.)

Merits:

Argued by Barry Novack for petitioner and by Richard A. Derevan for real party in interest. Cause submitted.

DIVISION EIGHT (Continued)

B153432 Allen
 v.
 Bardach, et al.

Merits:
Argued by Hillel Chodos for appellants and by Dan Goodkin for
respondent. Cause submitted.

B157328 Bandikian
 v.
 Zorenkelian, et al.

Merits:
Argued by Monique Candor for appellant and by Yeznik Kazandjian for
respondents. Cause submitted.

Court adjourned at 3:11 P.M.